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APPLICATION NO.		FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,438		07/13/2004	Andras Bertha	BERTHA-4	9435
545	7590	10/26/2005		EXAMINER	
ANTHON			KOSSON, ROSANNE		
KIRKPATI	RICK & L	OCKHART NICHO			
599 LEXIN	GTON A	VENUE	ART UNIT	PAPER NUMBER	
33RD FLO	OR		1653		
NEW YORK, NY 10022-6030				DATE MAILED: 10/26/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
Office Action Summan	10/501,438	BERTHA, ANDRAS				
Office Action Summary	Examiner	Art Unit				
	Rosanne Kosson	1653				
The MAILING DATE of this communication apportunity  Period for Reply	ears on the cover sheet with the c	orrespondence address				
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA  - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period w  - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	TE OF THIS COMMUNICATION 6(a). In no event, however, may a reply be tim ill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on 23 Au	iaust 2004.					
	action is non-final.					
<i>;</i> —	, <del></del>					
closed in accordance with the practice under E.						
Disposition of Claims						
4)⊠ Claim(s) <u>1-5</u> is/are pending in the application.						
4a) Of the above claim(s) is/are withdraw	n from consideration.					
5) Claim(s) is/are allowed.						
6) ☐ Claim(s) is/are rejected.						
7) Claim(s) is/are objected to.						
8) Claim(s) <u>1-5</u> are subject to restriction and/or ele	ection requirement.					
Application Papers	•					
9) The specification is objected to by the Examiner	•					
10) ☐ The drawing(s) filed on is/are: a) ☐ acce	epted or b) objected to by the B	Examiner.				
Applicant may not request that any objection to the o	lrawing(s) be held in abeyance. See	e 37 CFR 1.85(a).				
Replacement drawing sheet(s) including the correcti	on is required if the drawing(s) is obj	ected to. See 37 CFR 1.121(d).				
11)☐ The oath or declaration is objected to by the Ex	aminer. Note the attached Office	Action or form PTO-152.				
Priority under 35 U.S.C. § 119						
12) ☐ Acknowledgment is made of a claim for foreign a) ☐ All b) ☐ Some * c) ☐ None of:		-(d) or (f).				
1. Certified copies of the priority documents		on No				
<ul><li>2. Certified copies of the priority documents</li><li>3. Copies of the certified copies of the priority</li></ul>						
application from the International Bureau	· •	ru III tilis National Stage				
* See the attached detailed Office action for a list of		ed				
		·				
Attachment(s)	_					
1)  Notice of References Cited (PTO-892) 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)	4)					
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) 🔲 Notice of Informal P	atent Application (PTO-152)				
Paper No(s)/Mail Date	6)					

Application/Control Number: 10/501,438

Art Unit: 1653

## **DETAILED ACTION**

## Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-2, drawn to a method of obtaining an anti-tumor substance from the blood plasma of even-toe hoofed mammals having leucosis.

Group II, claim(s) 3-5, drawn to a method of obtaining an anti-tumor substance from the colostrum of even-toe hoofed mammals having leucosis.

The inventions listed as Groups I – II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons.

The requirement of unity of invention is not fulfilled because there is no technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" means those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art. Therefore, a technical relationship is lacking among the claimed inventions involving one or more special technical features. In the instant case, there is no common technical feature that links the two inventions. Group I is drawn to a method of making an anti-tumor substance that is found in the plasma of certain animals. Group II is drawn to a method of making an anti-tumor substance that is found in the colostrum of these animals. The substances are different, as plasma and colostrum are very different compositions. They differ greatly in their chemical make-up and in their chemical, physical and biological properties. Further, each method has different steps.

Because there is no common technical feature, it is clear that the claims of Groups I - II lack a single common technical feature that defines them over the prior art.

Further, an international application containing claims to different categories of inventions will be considered to have unity of invention if the claims are drawn only to one of certain combinations of categories:

- A product and a process specially adapted for the manufacture of said product; or
- A product and process of use of said product; or (2)
- A product, a process specially adapted for the manufacture of the said product, (3) and a use of the said product; or
- A process and an apparatus or means specifically designed for carrying out the (4) said process; or
- A product, a process specially adapted for the manufacture of the said product. and an apparatus or means specifically designed for carrying out the said process (see 37 CFR 1.475(b)-(d)). In the instant case, the claims are drawn to two different methods, each method making a different product. This particular combination of inventions may not be considered for unity of invention, as indicated in the list above.

Accordingly, a holding of lack of unity of invention is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rosanne Kosson whose telephone number is 571-272-2923. The examiner can normally be reached on Monday-Friday, 8:30-6:00, with alternate Mondays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber, can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rosanne Kosson Examiner Art Unit 1653

rk/2005-10-19

HOBERT A. WAX